

224 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8494-2022 (O/M)
Date of decision : 04.11.2024

Swaran Singh Petitioner

Versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Barjinder Singh, Advocate for
Mr. Prateek Sodhi, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG Punjab.

Mr. J.S. Thind, Advocate
for respondent No. 5.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Swaran Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 13.09.2021 (Annexure P-7), passed by learned Financial Commissioner, Punjab (in short 'Financial Commissioner'), whereby he has set aside the order dated 18.07.2017 (Annexure P-5), passed by learned Commissioner, Jalandhar Division, Jalandhar (in short 'Divisional Commissioner'), appointing the petitioner (Swaran Singh) as Lambardar of village Wadala Khurd, Tehsil and District Kapurthala and has further restored the order dated 24.11.2015 (Annexure P-4), passed by learned

Collector, Jalandhar, whereby respondent No. 5 (Ranjit Singh) was appointed as Lambardar of village Wadala Khurd.

2. Briefly, on demise of Shri Bhagat Singh, previous Lambardar of village Wadala Khurd, proceedings were initiated for filling up the aforesaid vacancy. In pursuance to the proclamation made in the village for filling up the aforesaid vacancy, 7 applications were received (including applications submitted by petitioner and respondent No. 5 herein). The Tehsildar, Kapurthala as well as Sub Divisional Officer, Kapurthala, recommended the name of present petitioner for appointment to the aforesaid vacancy.

2.1 During the pendency of the aforesaid proceedings, respondent No. 5 (Ranjit Singh) filed a petition before learned Divisional Commissioner for transfer of the Lambardari case from the court of learned District Collector, Kapurthala to any other court; whereupon learned Divisional Commissioner transferred the case to the court of learned District Collector, Jalandhar (in short 'Collector').

2.2 Learned Collector, Jalandhar, after considering the relative merits/demerits of the candidates, appointed respondent No. 5 (Ranjit Singh) as Lambardar of village Wadala Khurd, Tehsil and District Kapurthala, vide order dated 24.11.2015 (Annexure P-4). Learned Collector's order dated 24.11.2015 (Annexure P-4) came to be challenged by present petitioner by filing an appeal before learned Divisional Commissioner, which came to be allowed, vide order dated 18.07.2017 (Annexure P-5), whereby learned Collector's order dated 24.11.2015 (Annexure P-4) was set aside and present petitioner (Swaran Singh) was

appointed as Lambardar of village Wadala Khurd, Tehsil and District Kapurthala.

2.3 Feeling aggrieved against order dated 18.07.2017 (Annexure P-5), passed by learned Divisional Commissioner; respondent No. 5 preferred a revision petition (ROR-851-2017) before the learned Financial Commissioner, which was allowed vide order dated 13.09.2021 (Annexure P-7), whereby learned Divisional Commissioner's order dated 18.07.2017 (Annexure P-5) was set aside and learned Collector's order dated 24.11.2015 (Annexure P-4), appointing respondent No. 5 as Lambardar of village Wadala Khurd was restored.

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition seeking relief(s), as noticed above.

4. Learned counsel for petitioner submits that learned Financial Commissioner has erred in law and facts in setting aside the learned Divisional Commissioner's order dated 18.07.2017 (Annexure P-5), whereby the petitioner was appointed as Lambardar of village Wadala Khurd. It is submitted that the petitioner is more meritorious than respondent No. 5 inasmuch as that both the revenue officers recommended his candidature for appointment as Lambardar of village Wadala Khurd. It is further submitted that the petitioner has been non-suited by learned Financial Commissioner only on the ground that the petitioner is about 71 years of age. It is next submitted that although the petitioner is older than respondent No. 5, however, he is not incapacitated to perform the duties of Lambardar. It is still further submitted that learned Financial Commissioner has ignored the fact that the petitioner is an ex-serviceman and is more educated than respondent

No. 5, therefore, he was rightly appointed by learned Divisional Commissioner, which was required to be maintained by learned Financial Commissioner. It is next submitted that respondent No. 5 does not have clean antecedents as he has a criminal case registered against him. With the aforesaid submissions, prayer has been made for setting aside the order dated 13.09.2021 (Annexure P-7), passed by learned Financial Commissioner and for restoring the order dated 18.07.2017 (Annexure P-5), passed by learned Divisional Commissioner.

5. Per contra, learned counsel appearing for respondent No. 5- Ranjit Singh has opposed the submissions made on behalf of petitioner by submitting that learned Divisional Commissioner had erred in setting aside the learned Collector's order by ignoring the well settled law that in the matter of appointment of Lambardar, the choice of Collector is not to be lightly interfered with, even if two views are possible. It is submitted that respondent No. 5 is younger in age than the petitioner, which is a very relevant consideration. It is further submitted that respondent No. 5 has more landholding than the petitioner. As regards the allegation of the petitioner that there is an FIR registered against respondent No. 5, it is submitted that mere registration of FIR is no ground for non-consideration of the candidature for the post of Lambardar. It is still further submitted that there is no illegality or perversity in the Collector's order dated 24.11.2015 (Annexure P-4), which has been restored vide order dated 13.09.2021 (Annexure P-7) passed by learned Financial Commissioner. Accordingly, prayer has been made for dismissal of the instant civil writ petition.

6. I have heard learned counsel for respective parties and have also perused the paperbook with their able assistance.

7. Here, it would be appropriate to state the relative merits/demerits of the petitioner and respondent No. 5, as noticed by learned Collector in its order dated 24.11.2015 (Annexure P-4), which can be summed up as under :-

Particulars	Petitioner (Swaran Singh)	Respondent No. 5 (Ranjit Singh)
Age	59	49
Educational qualification	6 th class	4th class
Land holdings	40 kanal – 9 marla	52 kanal – 17 marla

7.1 Upon considering the merits/demerits of the candidates, learned Collector, vide order dated 24.11.2015 (Annexure P-4), appointed respondent No. 5 as Lambardar of village Wadala Khurd. However, learned Divisional Commissioner, vide order dated 18.07.2017 (Annexure P-5), set aside learned Collector's order dated 24.11.2015 (Annexure P-4) only on the ground that the petitioner was an ex-serviceman and was having equal claim as that of respondent No. 5 and ought to have been selected. Learned Divisional Commissioner's order dated 18.07.2017 (Annexure P-5) has been set aside by learned Financial Commissioner by observing as under :-

“6. I have heard counsels for the parties and given thoughtful consideration to the arguments and evidence on record. On perusal of the case and relevant orders of the lower courts, I find that vide order dated 24.11.2015, the District Collector appointed the petitioner Ranjit Singh as lambardar, after evaluating the comparative merits of all the candidates and specifically held that the petitioner seems to be more gentleman amongst all the candidates. Even, the

petitioner holds more land than the respondent and he is residing in the village. In appointment of lambardar, it is settled law that a person in younger age should be preferred for appointing someone to the post of Lambardar. Hon'ble Supreme Court of India in case of Mahavir Singh Versus Khiali Ram and others, 2009 (1) RCR (Civil) 757; 2009 (3) SSC (Civil) SSC 439 has held that "it is now a well-settled principle of law, keeping in view the decision in regard to the appointment of Lambardar in the State of Punjab, that age of candidate is a relevant fact". In the present case the petitioner is younger than the respondent and he is the choice of the Collector. Thus, he should be given preference over the respondent. Similarly, the petitioner also holds more land than the respondent. Therefore, am of the view that the Commissioner, Jalandhar Division, Jalandhar has taken perverse view by setting aside the well-reasoned order of the District Collector.

7. Consequently, I accept the present revision petition and order dated 18.07.2017 passed by Commissioner, Jalandhar Division, Jalandhar is set aside. The order dated 24.11.2015 passed by District Collector, Jalandhar is restored. Copy of this order be communicated to the courts below. Record be returned and file be consigned to the record."

7.2 Upon considering the totality of circumstances, I am of the considered view that learned Divisional Commissioner had erred in setting aside learned Collector's order dated 24.11.2015 (Annexure P-4) without appreciating the settled law that in the matter of appointment of Lambardar, the choice of Collector is not to be lightly interfered with, even if two views are possible. In this regard, reliance can be placed upon a Division Bench of this Court in the case of **Kuldip Singh Versus**

Financial Commissioner, Appeals-II, Punjab, 2016 (1) RCR (Civil) 273.

7.3 Further, respondent No. 5 is younger in age than petitioner inasmuch as that presently, petitioner is about 73 years of age whereas respondent No. 5 is about 59 years of age. Hon'ble the Supreme Court in the case of ***Mahavir Singh v. Khiali Ram and others***, 2009(1) RCR (Civil) 757, held that the age of a candidate is a relevant factor.

8. In view of the above discussion, I do not find any illegality or perversity in learned Collector's order dated 24.11.2015 (Annexure P-4), appointing respondent No. 5 as Lambardar of village Wadala Khurd, which has been rightly restored by learned Financial Commissioner, vide order dated 13.09.2021 (Annexure P-7).

9. Resultantly, the instant civil writ petition fails and the same is accordingly dismissed.

10. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

04.11.2024
sjks

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No